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CONCORD, N.H.

Mr. William A. Hanly  
Technical Secretary  
Water Pollution Commission  
17 Capitol Street  
Concord, New Hampshire

Dear Sir:

You have inquired whether the New Hampshire members of the New England Interstate Water Pollution Control Commission, in connection with out-of-state travel, must secure prior approval of the Governor and Council in accordance with R.L. c. 22, s. 36. It is the opinion of this office that such approval must be secured.

The legislature has seen fit to provide that expenses for out-of-state trips by state officials or employees shall not be a charge against the state, unless advance authorization for such trip has been procured from the Governor and Council. (R.L. c. 22, s. 36) This office has many times ruled that members of commissions similar to the Interstate Commission are state officials. Further, the 1950 Legislature amended s. 37 of the said chapter 22 by c. 5, Pt. 2, s. 5, Laws of 1950, by changing the exception to s. 36 so that out-of-state travel by one person from a department, otherwise authorized, may travel without prior authorization by the Governor and Council.

It is interesting to note that before 1951, such out-of-state travel as you contemplate would have been permissible under the said s. 37. This is a further indication of the legislative intent.

You have listed three reasons why you do not feel that the Interstate Commission should be required to secure Governor and Council approval for out-of-state travel. I recognize that your arguments have considerable merit. However, in answer to those reasons may I point out that while the major portion of the

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commissions business is out-of-state, and while there is ample protection for the state as regards commission expenditures, the funds appropriated for travel are still funds of the state, appropriated by the legislature, with the restriction placed thereon by that same body.

In the absence of specific authority to the contrary, R.L. c. 22, s. 36 is controlling.

Very truly yours,

Arthur E. Bean, Jr.  
Assistant Attorney General

AEB, Jr/T